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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

MS1 0789US

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on 01/18/05Signature Rachel L MTyped or printed name Rachel Murphy

Application Number

09/882,810

Filed

6/14/2001

First Named Inventor

Shannon J. Chan

Art Unit

2131

Examiner

Taghi T Arani

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor. assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96) attorney or agent of record. 34618  
Registration number \_\_\_\_\_ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

Daniel L Hayes  
Signature

Daniel L. Hayes'

Typed or printed name

509-324-9256

Telephone number

8/18/05  
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.

 \*Total of \_\_\_\_\_ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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AUG 18 2005

1 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2 Serial No..... 09/882,810  
3 Filing Date..... 6/14/2001  
4 Confirmation No. .... 7986  
5 Inventorship..... Chan et al.  
6 Applicant..... Microsoft Corporation  
Group Art Unit..... 2131  
Examiner ..... Arani, Taghi T  
7 Attorney's Docket No. .... MS1-789US  
Title: Key Exchange Mechanism for Streaming Protected Media Content

8 PRE-APPEAL BRIEF

9 Independent claims 1, 13, 19, 24, and 27 have been rejected as being  
10 anticipated under §102 by the Spies reference. The Examiner's error in making  
11 this rejection is plainly illustrated by the following two paragraphs, taken from  
12 page 2 of the 5/31/05 Office Action:

13 As per independent claims 1, 13, 19, 24, and 27, the  
14 Applicant merely argues that the cited prior art of Spies does not  
15 describe exchanging keys between a DVD drive and any other  
16 component and that it does not disclose passing one or more keys  
17 from a DVD. The Applicant admits (page 12 of the REMARKS) of  
Spies discussing various types of keys and communication of keys  
between different components, including servers and clients, but  
argues that Spies does not disclose passing keys from DVDs (page 9  
of the REMARKS).

18 The Examiner responds that independent claims 1, 13, 19, 24,  
19 and 27 are rejected based on U.S.C. 102(b) and the functional  
elements of exchanging keys were found to be substantially  
20 anticipated by Spies, where the program key is exchanged between  
purchaser and merchant units using pair of public and private  
21 exchange keys (col. 3, lines 19-51, see also col. 11, lines 46+) to  
obtain decryption capabilities.

22 A §102 rejection requires that each and every element of a claim be present  
in a single reference, arranged as claimed. Claim 1, as an example, recites that a  
client and server "pass one or more keys from the DVD to the key exchange client

1 . . ." Spies does not show this, as the Examiner impliedly admits in the passage  
2 above.

3 In response to the argument that Spies does not show passing keys from  
4 DVDs, the Examiner has maintained that even so, Spies "substantially" anticipates  
5 the claims. The Applicant respectfully submits that this does not meet the  
6 requirements of §102. Spies does not show all the elements of the independent  
7 claims, and therefore does not anticipate the claims.

8 Withdrawal of the rejections is therefore requested.

9  
10 Respectfully Submitted,

11  
12 Dated: 8/18/05

13 By: Daniel L. Hayes

14 Daniel L. Hayes  
Reg. No. 34,618  
(509) 324-9256